

TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.
030450

In Re Application Of: MICHAEL BISHOP ET AL.

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/719,476	November 21, 2003	Matar, Ahmad	36192	2614	3625

Invention: **METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT FOR PROVIDING
A NO-RING TELEPHONE CALL SERVICE**

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Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed on:
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Dated: February 5, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MICHAEL BISHOP ET AL.)
Serial No.: 10/719,476) Group Art Unit: 2614
Filed: NOVEMBER 21, 2003)
For: METHOD, SYSTEM AND) Examiner: Matar, Ahmad
COMPUTER PROGRAM)
PRODUCT FOR PROVIDING A)
NO-RING TELEPHONE CALL)
SERVICE) Confirmation No.: 3625

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APPEAL BRIEF

REAL PARTY IN INTEREST

The real party in interest is AT&T Delaware Intellectual Property, Incorporated, formally known as BellSouth Intellectual Property Corporation, the assignee of record.

RELATED APPEALS AND INTERFERENCES

There are no pending appeals or interferences related to this appeal.

STATUS OF CLAIMS

Claims 1-25 stand finally rejected.

The rejections of claims 1-25 are herein appealed.

STATUS OF AMENDMENTS

There have been no amendments filed after the final rejection mailed May 30, 2007.

SUMMARY OF CLAIMED SUBJECT MATTER

A concise explanation of the subject matter defined in each of the independent claims involved in the appeal is provided below.

Independent claim 1 recites a method for providing a no-ring telephone call service, the method comprising: receiving notification that a telephone call from a calling party device requesting to use the no-ring telephone call service has arrived at a switch, the notification including a called party telephone number (paragraphs [0020] and [0023], Figure 2, step 202); and determining if the called party telephone number corresponds to a voice mail platform telephone number in a region wide messaging database (paragraphs [0020] and [0023], Figure 2, steps 206 and 208), wherein: when the called party telephone number corresponds to a voice mail platform telephone number, instructions to route the telephone call to the voice mail platform telephone number are communicated to the switch (paragraphs [0020] and [0024], Figure 2, steps 208 and 212); when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, instructions to play a pre-recorded message are communicated to the switch, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number (paragraphs [0020] and [0023], Figure 2, steps 208 and 210); and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call (paragraphs [0020] and [0023]).

Independent claim 10 recites a system for providing a no-ring telephone call service, the system comprising: a service control point (Figure 1, element 132); a switch (Figure 1, element 136) in communication with the service control point, the switch including a no-ring telephone call service trigger provisioned on a calling party line at the switch for triggering a query to the service control point whenever a telephone call including a no-ring telephone call service request is made by a calling party device (paragraph [0023], Figure 2, steps 202 and 204); a region wide messaging database in communication with the service control point ((Figure 1, element 128);

and a no-ring telephone call application (Figure 1, element 130) accessed by the service control point for responding to the query by determining whether a called party telephone number corresponds to a voice mail platform telephone number in the region wide messaging database (paragraphs [0020] and [0023], Figure 2, steps 206 and 208), wherein: when the called party telephone number corresponds to a voice mail platform telephone number, the no-ring telephone call application sends instructions to the switch to route the telephone call to the voice mail platform telephone number (paragraphs [0020] and [0024], Figure 2, steps 208 and 212); when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, the no-ring telephone call application sends instructions to the switch to play a pre-recorded message, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number (paragraphs [0020] and [0023], Figure 2, steps 208 and 210); and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call (paragraphs [0020] and [0023]).

Independent claim 22 recites a system for providing a no-ring telephone call service, the system comprising: an application server (Figure 1, element 122); a switch (Figure 1, element 118) in communication with the application server, the switch including a no-ring telephone call service trigger provisioned on a calling party line at the switch for triggering a query to the application server whenever a telephone call including a no-ring telephone call service request is made by a calling party device (paragraph [0023], Figure 2, steps 202 and 204); a region wide messaging database in communication with the application server (Figure 1, element 128); and a no-ring telephone call application (Figure 1, element 130) accessed by the application server for responding to the query by determining whether a called party telephone number corresponds to a voice mail platform telephone number in the region wide messaging database (paragraphs [0020] and [0023], Figure 2, steps 206 and 208), wherein: when the called party telephone number corresponds to a voice mail platform telephone number, the no-ring telephone call application sends instructions to the switch to route the telephone call to the voice mail platform telephone number (paragraphs [0020] and [0024], Figure 2, steps 208 and 212); when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, the no-ring telephone call

application sends instructions to the switch to play a pre-recorded message, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number (paragraphs [0020] and [0023], Figure 2, steps 208 and 210); and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call (paragraphs [0020] and [0023]).

Independent claim 25 recites a storage medium encoded with machine readable computer program code for facilitating a no-ring telephone call service, the storage medium including instructions for causing a server to implement a method, comprising: receiving notification that a telephone call from a calling party device requesting to use the no-ring telephone call service has arrived at a switch, the notification including a called party telephone number (paragraphs [0020] and [0023], Figure 2, step 202); and determining if the called party telephone number corresponds to a voice mail platform telephone number in a region wide messaging database (paragraphs [0020] and [0023], Figure 2, steps 206 and 208), wherein: when the called party telephone number corresponds to a voice mail platform telephone number, the telephone call is routed to the voice mail platform telephone number (paragraphs [0020] and [0024], Figure 2, steps 208 and 212); when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, a pre-recorded message is delivered to the calling party device, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number (paragraphs [0020] and [0023], Figure 2, steps 208 and 210); and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call (paragraphs [0020] and [0023]).

The above exemplary embodiments are discussed with respect to the aforementioned independent claims by way of example only and are not intended to in any way limit the scope of these claims.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-5 and 7-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasiviswanathan in view of Shaffer.

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasiviswanathan in view of Shaffer and Medamana.

ARGUMENT

I. Rejection of claims 1-5 and 7-25

Claims 1-5 and 7-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasiviswanathan in view of Shaffer.

Embodiments of the invention provide two options for directing a communication to a called party. A first option allows the calling party to go directly to voicemail if the called party has a voicemail service. A second option is a direct connect option if the called party does not have a voicemail service. The second options includes playing a message and providing an option of directly connecting with the called party which includes ringing a device at the called party telephone number. These features are recited in claim 1 as “when the called party telephone number corresponds to a voice mail platform telephone number, instructions to route the telephone call to the voice mail platform telephone number are communicated to the switch; when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, instructions to play a pre-recorded message are communicated to the switch, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number; and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.”

Kasiviswanathan teaches a direct voice mail access option through which a calling party can dial a service code and a phone number to directly access a called party’s voice mail. Kasiviswanathan fails to teach a direct connect option to ring a called party’s device. The Examiner acknowledges that Kasiviswanathan fails to teach the direct connect option and relies on Shaffer for this feature. Shaffer teaches a system for playing a message to a caller to advise the caller of the time zone at the called party and connecting the call if the caller does not abandon the call.

The primary issue is obviousness. Applicants' position is that Kasiviswanathan teaches against directly connecting a call to the called party's device. The following exemplary sections of Kasiviswanathan clearly make this point evident.

A telecommunications system and method is disclosed for enabling a calling subscriber to invoke the forwarding of a call to a voice mail system for the called subscriber on a call-by-call basis in order to leave a message for the called subscriber without disturbing (ringing) the called subscriber (ABSTRACT).

The present invention relates generally to telecommunications systems and methods for routing calls to voice mail systems, and specifically to enabling a calling subscriber to directly connect to a voice mail system of the called subscriber without ringing the called subscriber and to allowing a called subscriber to prevent a calling subscriber from directly accessing the called subscriber's voice mail system (column 1, lines 8-15).

It is therefore an object of the invention to provide direct access by the calling subscriber to the voice mail of the called subscriber without ringing (disturbing) the called subscriber (column 2, lines 64-67).

Advantageously, the DVMA and DVMAB features are particularly useful in business environments where the calling party has the ability to leave a message without disturbing the called party and the called party can control when to block this direct access to voice mail. These features are also useful in residential environments where the calling party needs to leave a message for the called subscriber late at night (column 8, lines 23-30).

Clearly, Kasiviswanathan teaches against ringing the called party. This raises the question of would it have been obvious to modify Kasiviswanathan to include playing a message to the caller and then ringing the called party device as taught by Shaffer. The recent *KSR* decision maintains that the teaches away doctrine is applicable to determining obviousness. The PTO guidelines of October 10, 2007, entitled Examination Guidelines for Determining Obviousness under 25 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.*, state when the prior art teaches away from combining certain known elements, discovery of successful means of combining them is more likely to be non-obvious. Thus, teaching away is still a valid consideration in determining obviousness post-*KSR*.

As noted in MPEP § 2145, it is improper to combine references where the references teach away from their combination. In the present case, Kasiviswanathan clearly teaches against ringing the called party device, which is the modification that the

Examiner proposes based on Shaffer. The teaches away doctrine would have to be completely eviscerated for the combination of Kasiviswanathan and Shaffer to support a *prima facie* case of obviousness.

The Examiner reasons that it would have been obvious to one of ordinary skill in the art to provide an option to abandon or alternatively complete the call to the called party. The Examiner reasons that the motivation to do so is to provide the user with another option, since no voicemail is available. The Examiner lists a number of reasons for the desirability of ringing the called party. The problem with the Examiner's motivational statements is that they are inconsistent with the express teachings of Kasiviswanathan. The Examiner further reasons that Kasiviswanathan in no way precludes other options (such as completing a call) and the Examiner cites to boilerplate langue in Kasiviswanathan. In fact, Kasiviswanathan does preclude ringing the called party device in numerous locations. Accordingly, it is Applicants' position that the non-obviousness rejection is improper and should be withdrawn.

For at least the above reasons, claim 1 is patentable over Kasiviswanathan in view of Shaffer. Claims 2-5 and 7-9 variously depend from claim 1 and are patentable over Kasiviswanathan in view of Shaffer for at least the reasons advanced with reference to claim 1.

Claim 10 recites "when the called party telephone number corresponds to a voice mail platform telephone number, the no-ring telephone call application sends instructions to the switch to route the telephone call to the voice mail platform telephone number; when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, the no-ring telephone call application sends instructions to the switch to play a pre-recorded message, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number; and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call." As described above with respect to claim 1, Kasiviswanathan and Shaffer cannot be combined as proposed by the Examiner to teach these features. For at least the above reasons, claim 10 is patentable over

Kasiviswanathan in view of Shaffer. Claims 11-21 variously depend from claim 10 and are patentable over Kasiviswanathan in view of Shaffer for at least the reasons advanced with reference to claim 10.

Claim 22 recites “when the called party telephone number corresponds to a voice mail platform telephone number, the no-ring telephone call application sends instructions to the switch to route the telephone call to the voice mail platform telephone number; when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, the no-ring telephone call application sends instructions to the switch to play a pre-recorded message, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number; and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.” As described above with respect to claim 1, Kasiviswanathan and Shaffer cannot be combined as proposed by the Examiner to teach these features. For at least the above reasons, claim 22 is patentable over Kasiviswanathan in view of Shaffer. Claims 23-24 variously depend from claim 22 and are patentable over Kasiviswanathan in view of Shaffer for at least the reasons advanced with reference to claim 22.

Claim 25 recites “when the called party telephone number corresponds to a voice mail platform telephone number, the telephone call is routed to the voice mail platform telephone number; when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, a pre-recorded message is delivered to the calling party device, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number; and when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.” As described above with respect to claim 1, Kasiviswanathan and Shaffer cannot be combined as proposed by the Examiner to teach these features. For at least the above reasons, claim 25 is patentable over Kasiviswanathan in view of Shaffer.

II. Rejection of claim 6

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kasiviswanathan in view of Shaffer and Medamana.

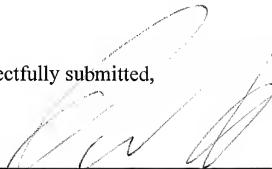
Medamana was relied upon for disclosing verifying that the calling party device is authorized to use the no-ring telephone call service, but fails to cure the deficiencies of Kasiviswanathan in view of Shaffer discussed above with reference to claim 1. Medamana teaches verifying a caller's authorization to use certain services, but provides no disclosure of ringing a called party when a voicemail application is unavailable. Claim 6 depends from claim 1 and is patentable over Kasiviswanathan in view of Shaffer and Medamana for at least the reasons advanced with reference to claim 1.

III. Conclusion

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued.

In the event the Commissioner of Patents and Trademarks deems additional fees to be due in connection with this application, Applicants' attorney hereby authorizes that such fee be charged to Deposit Account No. 06-1130.

Respectfully submitted,

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Date: February 5, 2008

CLAIM APPENDIX

1. A method for providing a no-ring telephone call service, the method comprising:
 - receiving notification that a telephone call from a calling party device requesting to use the no-ring telephone call service has arrived at a switch, the notification including a called party telephone number; and
 - determining if the called party telephone number corresponds to a voice mail platform telephone number in a region wide messaging database, wherein:
 - when the called party telephone number corresponds to a voice mail platform telephone number, instructions to route the telephone call to the voice mail platform telephone number are communicated to the switch;
 - when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, instructions to play a pre-recorded message are communicated to the switch, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the called party telephone number; and
 - when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.
2. The method of claim 1 wherein the instructions to route the telephone call include the voice mail platform telephone number and the called party telephone number.
3. The method of claim 1 wherein the region wide messaging database includes voice mail platform telephone number attributes and called party telephone number attributes.
4. The method of claim 1 wherein the notification is received at an application server.
5. The method of claim 1 wherein the notification is received at a service control point.
6. The method of claim 1 further comprising:

verifying that the calling party device is authorized to use the no-ring telephone call service; and

if the verifying results in a determination that the calling party device is not authorized to use the no-ring telephone call service then sending instructions to the switch to play a pre-recorded not authorized message to the calling party device.

7. The method of claim 1 wherein the request is initiated by a calling party entering a no-ring telephone call service code into the calling party device.

8. The method of claim 1 wherein the calling party device is a public switched telephone network enabled telephone and the switch is a service provider central office service switching point.

9. The method of claim 1 wherein the calling party device is an Internet protocol/session initiation protocol enabled telephone and the switch is a softswitch in communication with the Internet.

10. A system for providing a no-ring telephone call service, the system comprising:

a service control point;

a switch in communication with the service control point, the switch including a no-ring telephone call service trigger provisioned on a calling party line at the switch for triggering a query to the service control point whenever a telephone call including a no-ring telephone call service request is made by a calling party device;

a region wide messaging database in communication with the service control point; and

a no-ring telephone call application accessed by the service control point for responding to the query by determining whether a called party telephone number corresponds to a voice mail platform telephone number in the region wide messaging database, wherein:

when the called party telephone number corresponds to a voice mail platform telephone number, the no-ring telephone call application sends instructions to the switch to route the telephone call to the voice mail platform telephone number;

when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, the no-ring telephone call application sends instructions to the switch to play a pre-recorded message, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number; and

when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.

11. The system of claim 10 wherein the switch is a softswitch.

12. The system of claim 10 wherein the switch is a service switching point.

13. The system of claim 10 wherein the switch is a service provider central office service switching point.

14. The system of claim 10 wherein the calling party device is a public switched telephone network enabled telephone.

15. The system of claim 10 wherein the calling party device is an Internet protocol/session initiation protocol enabled telephone.

16. The system of claim 10 wherein the called party device is a public switched telephone network enabled telephone.

17. The system of claim 10 wherein the called party device is an Internet protocol/session initiation protocol enabled telephone.

18. The system of claim 10 wherein the service control point is an advanced intelligent network service control point.

19. The system of claim 10 wherein the no-ring telephone call application is remote from the service control point.

20. The system of claim 10 wherein the no-ring telephone call application is part of an application server that is in communication with the service control point.

21. The system of claim 10 wherein the telephone call is routed via a packet switching network.

22. A system for providing a no-ring telephone call service, the system comprising:

an application server;

a switch in communication with the application server, the switch including a no-ring telephone call service trigger provisioned on a calling party line at the switch for triggering a query to the application server whenever a telephone call including a no-ring telephone call service request is made by a calling party device;

a region wide messaging database in communication with the application server; and

a no-ring telephone call application accessed by the application server for responding to the query by determining whether a called party telephone number corresponds to a voice mail platform telephone number in the region wide messaging database, wherein:

when the called party telephone number corresponds to a voice mail platform telephone number, the no-ring telephone call application sends instructions to the switch to route the telephone call to the voice mail platform telephone number;

when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, the no-ring telephone call application sends instructions to the switch to play a pre-recorded message, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number; and

when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.

23. The system of claim 22 wherein the pre-recorded message is stored on a media player in communication with the switch.

24. The system of claim 22 wherein the telephone call is routed via a packet switching network.

25. A storage medium encoded with machine readable computer program code for facilitating a no-ring telephone call service, the storage medium including instructions for causing a server to implement a method, comprising:

receiving notification that a telephone call from a calling party device requesting to use the no-ring telephone call service has arrived at a switch, the notification including a called party telephone number; and

determining if the called party telephone number corresponds to a voice mail platform telephone number in a region wide messaging database, wherein:

when the called party telephone number corresponds to a voice mail platform telephone number, the telephone call is routed to the voice mail platform telephone number;

when the called party telephone number does not correspond to a voice mail platform telephone number and the calling party device is utilizing the no-ring telephone call service, a pre-recorded message is delivered to the calling party device, the pre-recorded message including a direct connect option for completing the telephone call to the called party telephone number including ringing a device at the calling party telephone number; and

when the calling party device selects the direct connect option, the no-ring telephone call application sends instructions to the switch to complete the telephone call.

EVIDENCE APPENDIX

Not Applicable

RELATED PROCEEDINGS APPENDIX

Not Applicable